

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Joseph Posimo and Andrea Posimo
625 Hoffenagle Street, Philadelphia, PA 19111

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

V Paul Bucci, II, Esquire
Laffey, Bucci & Kent, LLP, 1435 Walnut Street, 7th Floor

DEFENDANTS

City of Philadelphia, Commissioner Charles Ramsey, Police
Officer Robert Kane

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

John Coyle, Esq., City of Philadelphia, 1515 Arch Street, 14th
Floor, Philadelphia, PA 19102

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Sec. 1983

Brief description of cause:
Civil Rights Violation under 42 U.S.C. Sec. 1983

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

2. On December 31, 2013 said Complaint was served on Petitioner at 1515 Arch Street,

14th Floor, Philadelphia, Pennsylvania.


3. Plaintiffs allege that they sustained damages when their civil rights were violated by the defendants. (Exhibit A).

4. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 since Plaintiff's Complaint contains allegations of violations of the plaintiff's Federal Civil Rights and seeks relief under 42 U.S.C. § 1983. (Exhibit A)

Wherefore, petitioners, Commissioner Charles Ramsey, Police Officer Robert Kane, and City of Philadelphia, respectfully request that the captioned Complaint be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,

Craig M. Straw
Chief Deputy City Solicitor


JOHN COYLE
Assistant City Solicitor
Attorney I.D. No. 312084
1515 Arch Street, 14th Floor
Philadelphia, PA 19102
215-683-5434

Date: 1/14/14

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH POSIMO and	:	PHILADELPHIA COUNTY
ANDREA POSIMO, h/w	:	COURT OF COMMON PLEAS
625 Hoffenagle Street	:	
Philadelphia, PA 19111	:	DECEMBER TERM 2013
	:	
Plaintiffs,	:	No. 002699
	:	
	:	
v.	:	
	:	
	:	
THE CITY OF PHILADELPHIA	:	<u>JURY TRIAL DEMANDED</u>
1515 Arch Street, 14 th Floor	:	
Philadelphia, PA 19102	:	
	:	
CHARLES RAMSEY	:	
One Franklin Square, Room 314	:	
Philadelphia, PA 19106	:	
	:	
	:	
ROBERT KANE	:	
9300 Treaty Road	:	
Philadelphia, PA 19114	:	
	:	
	:	
Defendants.	:	

NOTICE OF FILING OF REMOVAL

TO: V. Paul Bucci, II, Esquire
Laffey, Bucci & Kent, LLP
7th Floor
Philadelphia, PA 19102

PLEASE TAKE NOTICE THAT on , defendants, Commissioner Charles Ramsey, Police Officer Robert Kane, and City of Philadelphia filed, in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania a verified Notice of Removal.

A copy of this Notice of Removal is attached hereto and is also being filed with the Clerk

of the Court of Common Pleas of Philadelphia County, pursuant to Title 28, United States Code, Section 1446(e).

A handwritten signature in black ink, appearing to read 'J. Coyle', is written over a horizontal line.

JOHN COYLE

Assistant City Solicitor

Attorney I.D. No. 312084

City of Philadelphia Law Department

1515 Arch Street, 14th Floor

Philadelphia, PA 19102

215-683-5434

Date:

1/14/14



JOHN COYLE

Assistant City Solicitor

Attorney ID No. 312084

City of Philadelphia Law Department

1515 Arch Street, 14th Floor

Philadelphia, PA 19102

215-683-5434

Exhibit "A":

Civil Cover Sheet

12037
For Prothonotary Use Only (Docket Number)
DECEMBER 2013
Filing Number: 1312036113
002699

PLAINTIFF'S NAME JOSEPH POSIMO		DEFENDANT'S NAME CITY OF PHILADELPHIA	
PLAINTIFF'S ADDRESS 625 HOFFENAGLE STREET PHILADELPHIA PA 19111		DEFENDANT'S ADDRESS 1515 ARCH STREET 14TH FLOOR PHILADELPHIA PA 19102	
PLAINTIFF'S NAME ANDREA POSIMO		DEFENDANT'S NAME CHARLES RAMSEY	
PLAINTIFF'S ADDRESS 625 HOFFENAGLE STREET PHILADELPHIA PA 19111		DEFENDANT'S ADDRESS ONE FRANKLIN SQUARE ROOM 314 PHILADELPHIA PA 19106	
PLAINTIFF'S NAME		DEFENDANT'S NAME ROBERT KANE	
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS 9300 TREATY ROAD PHILADELPHIA PA 19114	
TOTAL NUMBER OF PLAINTIFFS 2	TOTAL NUMBER OF DEFENDANTS 3	COMMENCEMENT OF ACTION <input checked="" type="checkbox"/> Complaint <input checked="" type="checkbox"/> Writ of Summons <input type="checkbox"/> Petition Action <input type="checkbox"/> Transfer From Other Jurisdictions <input type="checkbox"/> Notice of Appeal	
AMOUNT IN CONTROVERSY <input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00	COURT PROGRAMS <input type="checkbox"/> Arbitration <input checked="" type="checkbox"/> Jury <input type="checkbox"/> Non-Jury <input type="checkbox"/> Other: <input type="checkbox"/> Mass Tort <input type="checkbox"/> Savings Action <input type="checkbox"/> Petition <input type="checkbox"/> Commerce <input type="checkbox"/> Minor Court Appeal <input type="checkbox"/> Statutory Appeals <input type="checkbox"/> Settlement <input type="checkbox"/> Minors <input type="checkbox"/> W/D/Survival		
CASE TYPE AND CODE 20 - PERSONAL INJURY - OTHER			
STATUTORY BASIS FOR CAUSE OF ACTION			
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)		IS CASE SUBJECT TO COORDINATION ORDER? YES NO	
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>JOSEPH POSIMO , ANDREA POSIMO</u> Papers may be served at the address set forth below.		FILED PROPROTHY DEC 20 2013 J. MURPHY	
NAME OF PLAINTIFF'S/PETITIONER'S/APPELLANT'S ATTORNEY V PAUL BUCCI II		ADDRESS LAFFEY, BUCCI & KENT, LLP 1435 WALNUT STREET 7TH FLOOR PHILADELPHIA PA 19102	
PHONE NUMBER (215) 399-9252	FAX NUMBER (215) 241-8700		
SUPREME COURT IDENTIFICATION NO. 87394		E-MAIL ADDRESS pbucci@lbk-law.com	
SIGNATURE OF FILING ATTORNEY OR PARTY V PAUL BUCCI II		DATE SUBMITTED Friday, December 20, 2013, 11:32 am	

LAFHEY, BUCCI & KENT, LLP
IDENTIFICATION NO.: 87394/316461
V. PAUL BUCCI, ESQUIRE/STEPHEN T. KULP, ESQUIRE
1435 WALNUT STREET, 7th FLOOR
PHILADELPHIA, PA 19102
(215) 399-9255



ATTORNEYS FOR PLAINTIFFS

JOSEPH POSIMO and
ANDREA POSIMO, h/w
625 Hoffenagle Street
Philadelphia, PA 19111

Plaintiffs,

v.

THE CITY OF PHILADELPHIA
1515 Arch Street, 14th Floor
Philadelphia, PA 19102

CHARLES RAMSEY
One Franklin Square, Room 314
Philadelphia, PA 19106

ROBERT KANE
9300 Treaty Road
Philadelphia, PA 19114

Defendants.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

TERM, 2013

No.

JURY TRIAL DEMANDED

NOTICE TO DEFEND

NOTICE

"You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgement may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

"YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

PHILADELPHIA BAR ASSOCIATION
LAWYER REFERRAL and INFORMATION SERVICE
One Reading Center
Philadelphia, Pennsylvania 19107
(215) 238-1701"

"AVISO

"Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las páginas siguientes, usted tiene veinte (20) días, de plazo al partir de la fecha de la demanda y la notificación. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará medidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

"LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA O LLAME POR TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL

ASOCIACION DE LICENCIADOS DE FILADELFA
SERVICO DE REFERENCIA E INFORMACION LEGAL
One Reading Center
Filadelfia, Pennsylvania 19107
Telefono: (215) 238-1701"

COMPLAINT

1. Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, are adult individuals residing at 625 Hoffnagle Street, Philadelphia, PA 19111.

2. Upon information and belief, Defendant, Robert Kane, is a citizen and resident of Philadelphia County, Pennsylvania, and was at all times material to the allegations in this Complaint, acting in his capacity as a Police Officer/Detective employed by the City of Philadelphia and was acting under color of state law.

3. The Defendant, Charles Ramsey, is a citizen and resident of Philadelphia County, Pennsylvania, and was at all times material to the allegations in this Complaint, acting in his capacity as a Commissioner of the Police Department of the City of Philadelphia and was acting under color of state law. Defendant Ramsey was at all times material hereto responsible for the supervision and training of Defendant Kane. Defendant Ramsey, as the Commissioner of the Police Department, is further responsible for making and/or implementing policies and practices used by law enforcement officers employed by the City of Philadelphia regarding arrests, investigations and detentions.

4. The Defendant, City of Philadelphia, is a municipality of the Commonwealth of Pennsylvania for which Defendant Kane serves as police officer/detective and Defendant Ramsey serves as Police Commissioner. The City of Philadelphia is responsible for the training and supervision of Defendants Ramsey and Kane. The City of Philadelphia has established and implemented policies, practices, procedures, and customs used by law enforcement officials employed by the City regarding probable cause, arrests, investigations and detentions.

5. Defendants, City of Philadelphia and Commissioner Charles Ramsey, are being sued, *inter alia*, for their failure to adopt and maintain adequate policies practices, procedures,

and customs in the Philadelphia Police Department that would have prevented the injuries sustained by Plaintiffs.

6. On or about January 7, 2012, Plaintiff, Joseph Posimo, was arrested at the place of his employment, in front of customers and co-workers, and removed from the premises in handcuffs on charges of theft and conspiracy to commit theft.

7. It is believed and therefore averred that a warrant was contemporaneously issued and instituted against Plaintiff, Andrea Posimo.

8. After Joseph Posimo's arrest, Plaintiff, Andrea Posimo communicated with the fifteenth (15th) police district regarding the charges against Plaintiffs.

9. It is believed and therefore averred, at all times relevant hereto, Plaintiff, Andrea Posimo relied on the communications made by and between Plaintiff and Defendants' agents, employees, and/or servants and workmen at the fifteenth (15th) police district.

10. It is believed and therefore averred that Plaintiff, Andrea Posimo, was informed that Plaintiffs' criminal charges were being directed to the Domestic Affairs unit and that her warrant was not for her arrest.

11. It is believed and therefore averred that Philadelphia Police Detective Killman, of Domestic Affairs, assured Plaintiff, Andrea Posimo, she would not be arrested if Plaintiff agreed to meet with Detective Killman regarding charges against Plaintiff, Joseph Posimo.

12. However, on January 10, 2012, Plaintiff Andrea Posimo was arrested at her place of residence, in front of her son, located at 625 Hoffnagle Street, Philadelphia, Pennsylvania 19111.

13. At the time of her arrest, Plaintiff, Andrea Posimo, was thrown against a refrigerator by two police officers and two detectives and subsequently handcuffed.

14. As a result of Plaintiff, Andrea Posimo's arrest, Plaintiff was processed and confined overnight at the fifteenth (15th) police district.

15. It is believed and therefore averred that Plaintiffs' arrests were made with knowledge that there was no probable cause to arrest. Rather, the arrests were made as a result of purely personal motivation and reasons of Detective Kane and his family, and that approval of said warrants/arrests were as a result of the policies and procedures of the fifteenth (15th) police district and/or Philadelphia Police Department.

16. Upon release, Plaintiffs filed a formal complaint against the City of Philadelphia Police Department.

17. It is believed and therefore averred that the Domestic Affairs Unit conducted an investigation based on Plaintiffs' Complaint which was referred to Captain McGinnis on or about May 24, 2012 and resulted in disciplinary action being taken against Detective Kane.

18. Each of the Defendants, individually, and in concert with the others, acted under color of law in his/their official capacity, to deprive the Plaintiffs of their rights to freedom from illegal searches and seizure of his person; his rights to freedom from unlawful arrest, bodily restraints, physical punishment, detention, and imprisonment; and his right to freedom from cruel and unusual punishment in the form of the use of excessive and unnecessary force.

19. The Defendants, Charles Ramsey and the City of Philadelphia, failed to adequately supervise the Defendant, Robert Kane and his supervisors at the Fifteenth (15th) District.

20. At the time of the incidents alleged herein and before, the Plaintiffs were emotionally and physically healthy, active, and fully capable of engaging in normal day-to-day activities. Since the time of Plaintiffs' false arrest, assault, battery, false imprisonment, and cruel

and unusual punishment at the hands of Defendant Officers, Plaintiffs have required medical care and attention to treat anxiety, high blood pressure, sleeplessness, and depression.

21. As a direct and proximate result of the intentional and/or negligent acts of the Defendants, the incapacitated Plaintiffs have suffered severe mental and physical injury.

22. As a direct and proximate result of the intentional and/or negligent acts of the Defendants, Plaintiffs have incurred and continue to incur medical expenses for the treatment of Plaintiffs' injuries.

23. As a direct and proximate result of the intentional and/or negligent conduct of Defendants, Plaintiffs have suffered a loss of earnings, earnings capacity, and a loss of life's pleasures.

24. As a direct and proximate result of the intentional and/or negligent conduct of Defendants, Plaintiffs were caused to expend sums of money to defend themselves in the Court proceedings relating to the false arrests.

25. Plaintiffs are entitled to compensation for the constitutional harms inflicted upon them by the Defendants including personal injury and loss of liberty.

COUNT I
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
Plaintiffs v. All Defendants

26. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-25 of this Complaint.

27. In committing the acts complained of herein, Defendants acted under color of state law to deprive the incapacitated plaintiffs of certain constitutionally protected rights under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States of America including, but not limited to: a) the right to be free from unreasonable searches and

seizures; b) the right not to be deprived of liberty without due process of law; c) the right to be free from excessive use of force by person acting under color of state law; d) the right to be free from false arrest; e) the right to be free from cruel and unusual punishment; and f) the right to be free from bodily restraint.

28. In violating Plaintiffs' rights set forth above and other rights that will be proven at trial, Defendants acted under color of state law and conducted an unauthorized, illegal, and false arrest of Plaintiffs. The false arrest set into motion the chain of events that led to the unauthorized and excessive use of force by the Defendants, unconstitutional bodily restraint, false imprisonment, as well as cruel and unusual punishment by the Defendants in violation of Plaintiffs' rights under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution.

29. As a direct and proximate result of the violation of Plaintiffs, Joseph and Andrea Posimo's constitutional rights by the Defendants, Plaintiffs suffered the general and special damages as alleged in this Complaint and is entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT II
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(Failure to Implement Appropriate Policies, Customs, and Practices)
Plaintiffs v. All Defendants

30. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-29 of this Complaint.

31. Defendant Charles Ramsey, in his capacity as Commissioner of the Police Department of the City of Philadelphia, and Defendant City of Philadelphia implicitly or explicitly adopted and implemented careless and reckless policies, customs, or practices that included, *inter alia*, allowing employees of the police department to make false arrests, falsely imprison detainees and improper use of restraints on detainees.

32. The failure of the Police Commissioner, Charles Ramsey, and the City of Philadelphia to adequately train and supervise Defendant, Robert Kane and his supervisors in the Fifteenth (15th) District, amounts to deliberate indifference to the rights of Plaintiffs, Joseph and Andrea Posimo, to be free from false arrest and imprisonment, excessive force, and cruel and unusual punishment under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States.

33. As a result of the deliberate indifference to the rights of Plaintiffs, Plaintiffs suffered personal injuries and additional damages and are entitled to relief under 42 U.S.C. § 1983.

34. In committing the acts complained of herein, Defendants acted under color of state law to deprive the incapacitated plaintiffs of certain constitutionally protected rights under the Fourth, Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States of America including, but not limited to: a) the right to be free from unreasonable searches and seizures; b) the right not to be deprived of liberty without due process of law; c) the right to be free from excessive use of force by person acting under color of state law; d) the right to be free from false arrest; e) the right to be free from cruel and unusual punishment; and f) the right to be free from bodily restraint.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT III
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(Use of Excessive Force)
Plaintiffs v. All Defendants

35. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-34 of this Complaint.

36. The Defendant, City of Philadelphia, has adopted policies, procedures, practices or customs within the Philadelphia Police Department that allow, *inter alia*, the use of excessive force, including excessive and improper use of the restraints and imprisonment.

37. The actions of Defendant, City of Philadelphia, amount to deliberate indifference to the rights of Plaintiffs, Joseph and Andrea Posimo, to be free from excessive force and unreasonable searches and seizures under the Fourth and Fourteenth Amendments to the Constitution of the United States.

38. As a result of the deliberate indifference to the right of Plaintiffs and excessive force exercised by the Defendants, Plaintiffs suffered personal injuries and additional damages and are entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT IV
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(False Arrest)
Plaintiffs v. All Defendants

39. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-38 of this Complaint.

40. In committing the acts complained of herein, Defendant Robert Kane acted under color of state law by falsely arresting and detaining the Plaintiffs with no basis in fact or law to do so. In violating Plaintiffs' right to be free from false arrest, the Defendants violated Plaintiff's rights under the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States.

41. As a direct and proximate result of the violation of their constitutional right to be free from false arrest by the Defendants, Plaintiffs suffered personal injuries and additional damages and are entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT V
Violation of Civil Rights Pursuant to 42 U.S.C. § 1983
(Cruel and Unusual Punishment)
Plaintiffs v. All Defendants

42. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-41 of this Complaint.

43. Defendants violated the rights of Plaintiffs, Joseph and Andrea Posimo, by placing Plaintiffs in restraints and imprisoning them while no basis in fact or law supported an

arrest. This conduct on the part of Defendants amounted to unlawful punishment of a pretrial detainee without adjudication of guilt in violation of Fourth, Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States.

44. As a direct and proximate result of Defendants actions, which were in violation of Plaintiffs constitutional rights outlined above, Plaintiffs suffered personal injuries and additional damages and are entitled to relief under 42 U.S.C. § 1983.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT VI
(Negligence)
Plaintiffs v. All Defendants

45. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-44 of this Complaint.

46. Defendants, the City of Philadelphia and Ramsey owed Plaintiffs a duty to use due care at or about the time of the aforementioned incident.

47. In committing the aforementioned acts and/or omissions, each Defendant negligently breached said duty to use due care, which directly and proximately resulted in the injuries and damages to the Plaintiffs as alleged herein.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT VII
(Assault and Battery)
Plaintiffs v. All Defendants

48. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-47 of this Complaint.

49. The aforesaid acts of the Defendants constitute an assault and battery upon the persons of Plaintiffs, Joseph and Andrea Posimo, and represent conduct that is outrageous and intolerable in a civilized society.

50. The Defendants' actions were committed during the course and scope of their employment with the Philadelphia Police Department and while acting under color of state law.

51. As a direct and proximate result of the assault and battery committed by the Defendants, Plaintiffs were caused to suffer the severe and permanent physical injuries outlined herein and is entitled to economic and non-economic damages.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT VIII
(Intentional Infliction of Emotional Distress)
Plaintiffs v. All Defendants

52. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-51 of this Complaint.

53. The aforesaid intentional acts of the Defendant, Robert Kane, by and through his false arrest, imprisonment and unsubstantiated charges against Plaintiffs constitutes

intentional infliction of emotional distress upon the persons of Plaintiffs, Joseph and Andrea Posimo.

54. The Defendant's actions were committed during the course and scope of their employment with the Philadelphia Police Department and while acting under color of state law.

55. As a direct and proximate result of the assault and battery committed by the Defendants, Plaintiffs were caused to suffer the severe and permanent physical injuries outlined herein and is entitled to economic and non-economic damages.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

COUNT IX
(Negligent Infliction of Emotional Distress)
Plaintiffs v. All Defendants

56. Plaintiffs incorporate herein by reference the allegations set forth in paragraphs 1-55 of this Complaint.

57. The aforesaid acts and/or omissions of Defendants, by and through their negligent supervision of its agents, employees, officers, and/or workmen, constitute negligent infliction of emotional distress upon the persons of Plaintiffs, Joseph and Andrea Posimo.

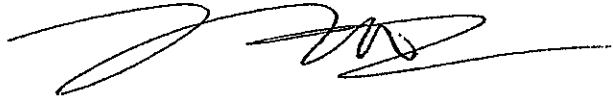
58. The Defendant's actions were committed during the course and scope of their employment with the Philadelphia Police Department and while acting under color of state law.

59. As a direct and proximate result of the assault and battery committed by the Defendants, Plaintiffs were caused to suffer the severe and permanent physical injuries outlined herein and is entitled to economic and non-economic damages.

WHEREFORE, Plaintiffs, Joseph Posimo and Andrea Posimo, h/w, claim of defendants, jointly and severally, a sum in excess of fifty-thousand dollars (\$50,000.00) in damages, exclusive of interest and costs, delay damages, pursuant to Pa.R.C.P. 238 and attorneys' fees and brings this action to recover the same.

Respectfully submitted,

LAFFEY, BUCCI & KENT, LLP



By:

V. PAUL BUCCI, II, ESQUIRE
Attorneys for Plaintiffs

Date: December 20, 2013

VERIFICATION

V. PAUL BUCCI, II, ESQUIRE, hereby state that I am the attorney for the Plaintiff, in the foregoing lawsuit, and verify that the statements made in the foregoing Complaint, are true and correct to the best of my knowledge, information and belief, and I understand that the statements in said pleading are made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

LAFFEY, BUCCI & KENT, LLP

A handwritten signature in black ink, appearing to be 'V. Paul Bucci, II', written over a horizontal line.

BY: _____
V. PAUL BUCCI, II, ESQUIRE

Dated: December 20, 2013

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA – DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 625 Hoffenagle Street, Philadelphia, PA 19111

Address of Defendant: City of Philadelphia Law Department, 1515 Arch Street, 14th Floor, Philadelphia, PA 19102

Place of Accident, Incident or Transaction: 625 Hoffenagle Street, Philadelphia, PA 19111
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)). Yes ☐ No ☐

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☐

RELATED CASE IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐

CIVIL: (Place in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All
2. ☐ FELA
3. ☐ Jones Act – Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All Other Federal Questions Cases (Please specify)

B. Diversity Jurisdiction Cases:

- Other Contracts
1. ☐ Insurance Contract and Other Contracts
 2. ☐ Airplane Personal Injury
 3. ☐ Assault, Defamation
 4. ☐ Marine Personal Injury
 5. ☐ Motor Vehicle personal Injury
 6. ☐ Other Personal Injury (Please specify)
 7. ☐ Products Liability
 8. ☐ Products liability - Asbestos
 9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, John Coyle, counsel of record do hereby certify:

- ☐ Pursuant to Local Rule 53.3 A, civil rights cases are excluded from arbitration.
- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: _____

John Coyle, Esquire
Attorney-at-Law

312084
Attorney I.D. #

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: _____

John Coyle, Esquire

312084
Attorney I.D. #

- (a) Habeas Corpus -- Cases brought under 28 U.S.C. §2241 through § 2255. ()
- (b) Social Security -- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration -- Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos -- Cases involving claims for personal injury or property damage from

exposure to asbestos.

()

(e) Special Management -- Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.)

()

(f) Standard Management -- Cases that do not fall into any one of the other tracks.

(X)

1/14/14
Date

(215) 683-5447

Telephone

John Coyle, Esq.

(215) 683-5397

FAX Number

Defendants
Attorney for

john.coyle@phila.gov

E-mail Address